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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of
VUNJAK-NOVAKOVIC, Gordana et al.

Serial No.: 10/815,778

Filed: April 2, 2004

For: CARTILAGE IMPLANT ASSEMBLY AND METHOD FOR IMPLANTATION

Group Art Unit: 1657

Examiner: Satyendra K. SINGH

Confirmation No.: 8172

I hereby certify that this correspondence is being deposited with the United States Postal Service, First Class Mail postage prepaid, to Commissioner for Patents, MAIL STOP AMENDMENT, P.O. Box 1450, Alexandria, VA 22313- 1450 3-20-08
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SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Sir:

In accordance with the provisions of 37 C.F.R. §§1.97 and 1.98, applicants and their attorney respectfully request that the following documents be made of record in the official United States Patent and Trademark Office file relating to the above-identified application. The citation of these documents should not be construed as an admission that they constitute statutory prior art with respect to the present invention. In accordance with 37 C.F.R. §1.98(a)(2)(ii), copies of the following U.S. patents and publications are not submitted herewith.

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Applicants' attorney notes that all of the above-listed documents are in the English language, with exception of International Publication Nos. WO 2004/075940 A1, WO 01/043667 A1 and WO 99/021497, and European Patent No. EP 1237511 B1. With reference to International Publication No. WO 2004/075940 A1, it has an English language abstract and corresponds to U.S. Patent Publication No. 2007/0148242 A1, which is also cited above. Similarly, International Publication No. WO 01/043667 A1 has an English language abstract and corresponds to U.S. Patent No. 6,858,042, which is also cited above. International Publication No. WO 99/021497 A1 contains an English abstract and was cited in an Office Action mailed on April 19, 2007 in connection with co-owned U.S. Patent Application Serial No. 11/151,270, a copy of which is attached (see below). The Office Action in the co-owned application contains comments concerning the relevance of International Publication No. WO 99/021497 A1. European Patent No. EP 1237511 B1 corresponds to International Publication No. WO 01/043667 A1 and U.S. Patent No. 6,858,042. In such circumstances, comments concerning the relevance of the foregoing documents are believed to be unnecessary under 37 C.F.R. § 1.98.

Copies of the foreign patents, foreign patent publications and non-patent documents listed above are enclosed in accordance with 37 C.F.R. § 1.98. In this regard, applicants' attorney notes that the European Patent Office appears to have published International Publication Nos. WO 95/33502 A1, WO 98/41246 A2, WO 01/043667 A1 and WO 2004/096983 A2 as European Patent Publication Nos. EP 0762903 A1, EP 0968012 A1, EP

1237511 A1 and EP 1618178 A1, respectively (see http://ep.espacenet.com/). In such circumstances, applicants' attorney believes that no separate publications are available for European Patent Publication Nos. EP 0762903 A1, EP 0968012 A1, EP 1237511 A1 and EP 1618178 A1. Applicants' attorney therefore respectfully requests that the Examiner accept the enclosed copies of International Publication Nos. WO 95/33502 A1, WO 98/41246 A2, WO 01/043667 A1 and WO 2004/096983 A2 as copies of these European patent publications.

CO-PENDING U.S. PATENT APPLICATIONS

Applicants wish to inform the Examiner of the following co-pending U.S. applications, which are at least partially commonly owned with the present application:

1. U.S. Patent Application Serial No. 10/438,883 filed May 16, 2003 ("the '883 Application") was published as U.S. Patent Application Publication No. 2004/0230303 A1, which is cited herein. The present application received a provisional double patenting rejection based on the '883 Application, as set out in a United States Patent and Trademark Office Communication mailed February 7, 2008. Copies of the following Office Actions and Communication issued during the prosecution of the '883 Application are enclosed:

a non-final Office Action mailed on November 5, 2004;

a non-final Office Action mailed on May 3, 2005;

a final Office Action mailed on October 18, 2005;

a non-final Office Action mailed on February 6, 2007; and

a Communication mailed on October 9, 2007.

All references cited in the '883 Application which were not previously cited in the present application are now cited herein.

2. U.S. Patent Application Serial No. 11/151,270 filed June 14, 2005 ("the '270 Application") is a continuation-in-part (CIP) application of the '883 Application. The '270 Application was published as U.S. Patent Application Publication No. 2005/0251268 A1, which is cited herein. Copies of the following Office Actions issued during the prosecution of the '270 Application are attached:

a non-final Office Action mailed on April 19, 2007;

a final Office Action mailed on October 9, 2007; and

an Advisory Action mailed on December 27, 2007.

All references cited in the '270 Application which were not previously cited in the present application are now cited herein.

3. U.S. Patent Application Serial No. 10/960,960 filed October 12, 2004 ("the '960 Application") is a CIP of the present application. The '960 Application was published as U.S. Patent Application Publication No. 2005/0064042 A1, which is cited herein. The aforementioned provisional double patenting rejection of the present application was also based on the '960 Application, as set out in the outstanding February 7, 2008 Office Action. The '883 Application also received a provisional double patenting rejection based on the '960 Application, as set out in the February 6, 2007 Office Action listed above. Enclosed are copies of the following Office Actions issued during the prosecution of the '960 Application:

a non-final Office Action mailed on February 20, 2007; and

a final Office Action mailed on September 28, 2007.

All references cited in the '960 Application which were not previously cited in the present application are now cited herein.

4. U.S. Patent Application Serial No. 11/081,103 filed March 16, 2005 ("the '103 Application") was published as U.S. Patent Application Publication No. 2006/0210643 A1, which

is cited herein. All references cited in the '103 Application which were not previously cited in the present application are now cited herein.

5. U.S. Patent Application Serial No. 12/010,984 filed January 31, 2008 ("the '984 Application") is a divisional application of the '103 Application. A copy of the '984 Application, as filed, is attached. The title, applicant and assignee for the '984 Application are as follows:

Title: CARTILAGE REPAIR MIXTURE CONTAINING ALLOGRAFT CHONDROCTYES

Applicants: Katherine G. Truncale and Arthur Gertzman

Assignee: Musculoskeletal Transplant Foundation

6. U.S. Patent Application Serial No. 11/481,955 filed July 7, 2006 ("the '955 Application") was published as U.S. Patent Application Publication No. 2007/0009610 A1, which is cited herein. All references cited in the '955 Application which were not previously cited in the present application are now cited herein.

7. U.S. Patent Application Serial No. 11/657,042 filed January 24, 2007 ("the '042 Application"). A copy of the '042 Application, as filed, is attached. The title, applicant and assignee for the '042 Application are as follows:

Title: TWO PIECE CANCELLOUS CONSTRUCT FOR CARTILAGE REPAIR

Applicants: Eric J. Semler, Katherine G. Truncale, Alex B. Callahan and Judith I. Yannariello-Brown

Assignee: Musculoskeletal Transplant Foundation

8. U.S. Patent Application Serial No. 12/043,001 filed March 5, 2008 ("the '001 Application"). A copy of the '001 Application, as filed, is attached. The title, applicant and assignee for the '001 Application are as follows:

Title: CANCELLOUS CONSTRUCT WITH SUPPORT RING FOR REPAIR OF OSTEOCHONDRAL DEFECTS

Applicants: Eric J. Semler, Roman Shinkanovich, Alex B. Callahan and Katherine G. Truncale

Assignee: Musculoskeletal Transplant Foundation

COMMONLY OWNED INTERNATIONAL PATENT APPLICATIONS

Applicant also wishes to inform the Examiner of the following international (PCT) applications, which are at least partially commonly owned with the present application:

A. International Patent Application No. PCT/US2004/010957 filed April 21, 2004 and now abandoned ("the WO '10957 Application") is the international counterpart of the '883 Application. The WO '10957 Application was published as International Publication No. WO 2004/103224 A1, which is cited herein. A copy of this international publication is enclosed, along with a copy of an International Search Report issued in connection with the WO '10957 Application on November 1, 2004. All references cited in the enclosed International Search Report were previously cited in the present application. Also enclosed are the following papers issued during the prosecution of the WO '10957 Application:

a Written Opinion issued on November 1, 2004; and

an International Preliminary Report on Patentability issued on November 18, 2005.

B. International Patent Application No. PCT/US2005/030610 filed August 26, 2005 and now abandoned ("the WO '30610 Application") corresponds to the present application. The WO '30610 Application was published as International Publication No. WO 2007/024238 A1, which is cited herein. A copy of this international publication is enclosed along with a copy of an International Search Report issued in connection with the WO '30610 Application on April 7,

2006. All references cited in the attached International Search Report which were not previously cited in the present application are now cited herein. Also enclosed herein are the following papers issued during the prosecution of the WO '30610 Application:

a Written Opinion issued on April 7, 2006; and

an International Preliminary Report on Patentability issued on February 26, 2008.

C. International Patent Application No. PCT/US2005/036878 filed October 12, 2005 and now abandoned ("the WO '36878 Application") is the international counterpart of the '960 Application. The WO '36878 Application was published as International Publication No. WO 2006/042311 A2, which is cited herein. A copy of this international publication is enclosed along with a copy of an International Search Report issued in connection with the WO '36878 Application on September 21, 2006. All references cited in the enclosed International Search Report which were not previously cited in the present application are now cited herein. Also enclosed herein are the following papers issued during the prosecution of the WO '36878 Application:

a Written Opinion issued on September 21, 2006; and

an International Preliminary Report on Patentability issued on April 17, 2007.

D. International Patent Application No. PCT/US2005/008798 filed March 16, 2005 and now abandoned ("the WO '08798 Application") corresponds to the '103 Application. The WO '008798 Application was published as International Publication No. WO 2005/110278 A2, which is cited herein. A copy of this international publication is enclosed along with a copy of an International Search Report issued in connection with the WO '08798 Application on June 19, 2006. All references cited in the enclosed International Search Report which were not previously cited in the present application are now cited herein.

E. International Patent Application No. PCT/US2004/010956 filed April 21, 2004 and now abandoned ("the '10956 Application") is the international counterpart of commonly-owned U.S. Patent No. 7,067,123, which is cited herein. The WO '10956 Application was published as International Publication No. WO 2004/096983 A2, which is also cited herein. A copy of this international publication is enclosed, along with a copy of an International Search Report issued in connection with the WO '10956 Application on October 28, 2005. The single reference cited in the enclosed International Search Report was previously cited in the present application.

F. International Patent Application No. PCT/US2008/051796 filed January 23, 2008 ("the WO '51796 Application") is the international counterpart of the '042 Application. A copy of the WO '51796 Application, as filed, is attached. The title, applicant and assignee for the WO '51796 Application are as follows:

Title: TWO PIECE CANCELLOUS CONSTRUCT FOR CARTILAGE REPAIR

Applicants: Musculoskeletal Transplant Foundation, Eric J. Semler, Katherine G. Truncale, Alex B. Callahan and Judith I. Yannariello-Brown

Assignee: Musculoskeletal Transplant Foundation

* * *

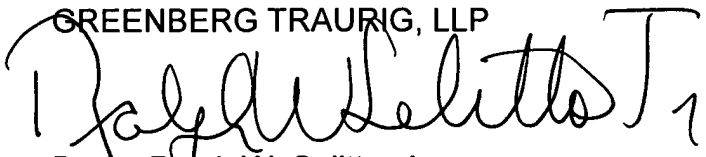
In order to facilitate the Examiner's citation of the documents listed above, applicants' attorney has completed United States Patent and Trademark Office Forms PTO/SB/08A and PTO/SB/08B. The completed forms are attached hereto for the Examiner's convenience.

Pursuant to 37 C.F.R. §1.97(c), a fee of $180 is due in connection with the submission of this Supplemental Information Disclosure Statement because it is being filed after the mailing date of a first Office Action on the merits in the present application.

The Commissioner is authorized to charge this $180 fee to Deposit Account No. 501561. In the event that there are any additional fees due and owing in connection with the filing of this Supplemental Information Disclosure Statement, including extension and petition fees, the Commissioner is hereby authorized to charge them to Deposit Account No. 501561.

Respectfully Submitted,

GREENBERG TRAURIG, LLP



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